

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

January 26, 2009

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Davis, Associate Justice; and Horner, bailiff.

C055866 GRANT v. WASTE MANAGEMENT INC., et al.

Cause called. James F. Tritt argued for appellant. Matthew J. Ruggles argued for respondent. Cause submitted.

At 10:01 a.m., the court recessed. At 10:01 a.m., the court reconvened.

C057773 THE PEOPLE v. MICHAEL ALAN KHATOONIAN

Cause called. George M. Hendrickson, Deputy Attorney General, argued for appellant. Johnny L. Griffin, III argued for respondent. Cause submitted.

At 10:18 a.m., the court recessed. At 10:21 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

C057149 HAMMON v. WOOLERY et al.

Cause called. Bradley S. Thomas argued for appellant. Robert F. Sinclair argued for respondent. Cause submitted.

At 10:24 a.m., the court recessed. At 10:27 a.m., the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

C057763 In re CLINT D.; THE PEOPLE v. CLINT D.

Cause called. Syda Kosofsky, court appointed counsel, argued for appellant. Darren K. Indermill, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:27 a.m., the court recessed. At 10:47 p.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Butz, Associate Justice.

C056440 VAN ALSTYNE v. CARTER et al.

Cause called. Thomas W. Van Alstyne argued for appellant. Michael B. Read argued for respondent. Cause submitted.

At 2:30 p.m., the court recessed until Tuesday, January 27, 2009.

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Court Minutes

January 26, 2009, Continued

- C054140** **THE PEOPLE v. LENG VANG et al.** **(Not For Publication)**
C054268 **THE PEOPLE v. XUE THAO**
 The judgment of conviction on count two and the gang enhancements on counts one and three are reversed as to each defendant. In all other respects, the judgment is affirmed as to each defendant. The cases are remanded to the trial court for resentencing, with proper credit for presentence custody credits.
 NICHOLSON, Acting P.J.
We Concur: Robie, J.
 Butz, J.
- C055879** **THE PEOPLE v.** **(Not For Publication)**
 JOHN EARL JONES
 The judgment is affirmed. The trial court shall amend its June 4, 2007 minute order as directed in this opinion.
 MORRISON, Acting P.J.
We Concur: Butz, J.
 Cantil-Sakauye, J.
- C056373** **THE PEOPLE v.** **(Not For Publication)**
 ALBERT JOE AVALOS
 The judgment is affirmed.
 SIMS, Acting P.J.
We Concur: Davis, J.
 Robie, J.
- C057440** **THE PEOPLE v. JERRY BRIGHT** **(Not For Publication)**
 The judgment is affirmed.
 CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
 Robie, J.
- C057524** **THE PEOPLE v.** **(Not For Publication)**
 GAY LYNN MARTIN
 The judgment is affirmed.
 MORRISON, J.
We Concur: Scotland, P.J.
 Davis, J.

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Court Minutes

January 26, 2009, Continued

- C058224 THE PEOPLE v. (Not For Publication)**
ROBERT LYNN ALLDREDGE
The \$50 chemical urinalysis fee shall be stricken. As modified, the order of probation is affirmed. The court is directed to amend its records to reflect the modification and to forward the appropriate documents to appellant and the probation department.
MORRISON, J.
We Concur: Nicholson, Acting P.J.
Robie, J.
- C058471 THE PEOPLE v. (Not For Publication)**
GLEN DALE LEMONS, JR.
The appeal is dismissed.
SCOTLAND, P.J.
We Concur: Hull, J.
Butz, J.
- C058623 THE PEOPLE v. (Not For Publication)**
MICHAEL ALLEN LAURI
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Hull, J.
Butz, J.
- C059272 THE PEOPLE v. MARK CASSIERO (Not For Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Hull, J.
Butz, J.
- C059413 THE PEOPLE v. (Not For Publication)**
JAMES KEVIN CLARK-MONACO
The judgment is affirmed.
MORRISON, J.
We Concur: Davis, Acting P.J.
Nicholson, J.
- C059598 THE PEOPLE v. (Not For Publication)**
ROBERT EDWARD BEVENS
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Hull, J.
Butz, J.

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Court Minutes

January 26, 2009, Continued

**C057814 PETERSON v. CALIFORNIA INSURANCE (Not For Publication)
GUARANTEE ASSOCIATION**

The order denying interest on the 2004 order is reversed, and the matter is remanded to the trial court. The trial court shall issue an order awarding interest to petitioner at the annual rate of 10 percent from August 24, 2004, on the principal amount of \$257,072.19. Costs on appeal are awarded to petitioner. (Cal. Rules of Court, rule 8.278 (a).)

NICHOLSON, Acting P.J.

We Concur: Robie, J.

Cantil-Sakauye, J.

**C058209 In re J.V. et al.; SACRAMENTO (Not For Publication)
COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. NANCY C.**

The juvenile court order is affirmed.

SIMS, J.

We Concur: Blease, Acting P.J.

Cantil-Sakauye, J.

**C059169 In re KAREN C. et al.; SUTTER (Not For Publication)
COUNTY DEPARTMENT OF
HUMAN SERVICES v. REYNALDO
C., JR. et al.**

The orders of the juvenile court are affirmed.

BLEASE, Acting P.J.

We Concur: Hull, J.

Robie, J.

January 27, 2009

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Davis, Associate Justice; Nicholson, Associate Justice; Hull, Associate Justice; and Haskett, bailiff.

C055074 RONCZYK, SR. v. CALIFORNIA YOUTH AUTHORITY

Cause called. Donald C. Duchow argued for appellant. James Charles Phillips, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:40 a.m., the court recessed. At 9:43 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Cantil-Sakauye, Associate Justice.

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Court Minutes

January 27, 2009, Continued

C057720 THE PEOPLE v. KEVIN TERRY BRINCKMAN

Cause called. Madeline McDowell, court appointed counsel, argued for appellant. Jesse Witt, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:15 a.m., the court recessed. At 10:20 a.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

C054495 CITY OF STOCKTON v. MARINA TOWERS, LLC., et al.

Cause called. Norman E. Matteoni argued and Bradley M. Matteoni appeared only for appellant. Thomas H. Keeling argued and Arnold J. Wolf appeared only for respondent. Cause submitted.

At 11:02 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Robie, Associate Justice.

C059463 THE PEOPLE v. RICHARD BRIAN JONES

Cause called. Richard J. Krech, court appointed counsel, argued for appellant. Joseph M. Cook, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:38 p.m., the court recessed. At 2:43 p.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

C058030 In re DARIN PALERMO on Habeas Corpus

Cause called. Benjamin P. Ramos argued for petitioner. Pamela B. Hooley Griffin, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:15 p.m., the court recessed. At 3:18 p.m., the court reconvened.

C057249 In re TIMOTHY ELLIS ROSS on Habeas Corpus

Cause called. Michael Satris, court appointed counsel, argued for petitioner. Amy Daniel, Deputy Attorney General, argued for respondent. Cause submitted.

At 4:08 p.m., the court recessed. At 4:09 p.m., the court reconvened with Sims, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

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January 27, 2009, Continued

Cause called. Michael W. Thomas argued for appellant. Daniel W. Smith argued for respondent. Cause submitted.

We Concur: NICHOLSON, J.
Blease, Acting P.J.
Hull, J.

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Court Minutes

January 27, 2009, Continued

C054983 SUTTER HEALTH UNINSURED PRICING (Not For Publication)
CASES; MICHAEL STOWERS et al. v.
SUTTER HEALTH et al.

The orders denying intervention and approving the settlement are affirmed. Appellants shall pay respondents' costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (2).)

MORRISON, J.

We Concur: Sims, Acting P.J.
 Hull, J.

C057412 THE PEOPLE v. THOMAS MARTIN VON LAHR, II
BY THE COURT:

Kimberly R. Olson's request to publish the opinion filed on January 13, 2009, is denied.

SCOTLAND, P.J.

January 28, 2009

C054900 THE PEOPLE v. (Not For Publication)
PATRICIA ANNE ORDWAY

As the People note, because the judgment includes a sentence of life without the possibility of parole, the restitution fine of \$5,000 that was imposed but suspended unless parole is revoked (§ 1202.45; i.e., the parole revocation fine), must be stricken. ... The trial court is directed to prepare an amended abstract of judgment reflecting this modification and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.

DAVIS, J.

We Concur: Sims, Acting P.J.
 Nicholson, J.

C056028 THE PEOPLE v. CHARLES HARVEY (Not For Publication)

The conviction on count twelve is reversed. The judgment is affirmed in all other respects. The trial court is directed to prepare an amended abstract of judgment and to provide a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

DAVIS, J.

We Concur: Sims, Acting P.J.
 Hull, J.

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Court Minutes

January 28, 2009, Continued

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| C054096 | THE PEOPLE v.
QUINTAURUS TREMELE SARDIN et al.
The judgment is affirmed.
MORRISON, J.
We Concur: Scotland, P.J.
Davis, J. | (Not For Publication) |
| C057650 | THE PEOPLE v.
CARLOS CHARLES CISNEROS, JR.
The judgment is affirmed.
HULL, Acting P.J.
We Concur: Robie, J.
Butz, J. | (Not For Publication) |
| C056873 | THE PEOPLE v.
BONNEY THAVISACK
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Davis, J.
Robie, J. | (Not For Publication) |
| C058311 | THE PEOPLE v.
GERALD LEE KENYON, JR.
The judgment is affirmed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Butz, J. | (Not For Publication) |
| C059298 | THE PEOPLE v. MAURICE JOHNSON
The judgment is affirmed.
ROBIE, J.
We Concur: Blease, Acting P.J.
Hull, J. | (Not For Publication) |

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Court Minutes

January 28, 2009, Continued

- C055430 MUZZI et al. v. BEL AIR MART (Not For Publication)**
To the extent the judgment provides that Bel Air violated its lease by placing large seasonal storage containers in the shopping center's parking spaces, the judgment is affirmed. To the extent the judgment provides that Bel Air did not violate its lease by keeping bread racks, bins, carts, milk boxes, an oil recycling bin, and similar items in parking stalls, the judgment is reversed. Plaintiffs are awarded their costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (5).)
HULL, J.
We Concur: Sims, Acting P.J.
Raye, J.
- C057083 CALIFORNIA NATIVE PLANT SOCIETY et al. v. COUNTY OF EL DORADO et al.; CAMERON PARK VENTURES et al. (Certified For Partial Publication)**
The judgment is reversed with directions to the trial court to issue a writ of mandate commanding the County to cancel the MND and prepare an EIR consistent with the views stated herein. The County and Real Parties in Interest shall pay the Society's costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (2).)
MORRISON, J.
We Concur: Davis, Acting P.J.
Cantil-Sakauye, J.
- C057896 MILLER et al. v. BANK OF AMERICA, N.A. (Certified For Publication)**
The judgment is affirmed.
DAVIS, J.
We Concur: Scotland, P.J.
Cantil-Sakauye, J.
- C057621 In re D.F.; THE PEOPLE v. D.F. (Not For Publication)**
The juvenile adjudication is affirmed.
DAVIS, Acting P.J.
We Concur: Hull, J.
Cantil-Sakauye, J.

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Court Minutes

January 29, 2009

C046559 THE PEOPLE v. (Not For Publication)
CHRISTINA LYNN WHEELER

The sentence is vacated. The case is remanded to the trial court with directions to resentence defendant in accordance with this opinion and in a manner consistent with the amendments to the Determinate Sentencing Law adopted by the Legislature. In all other respects, the judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

C057223 THE PEOPLE v. (Not For Publication)
ROBERT GARY STIRNAMAN

The judgment is affirmed.

BUTZ, J.

We Concur: Scotland, P.J.

Hull, J.

C057344 THE PEOPLE v. (Not For Publication)
GEORGE LANDECHO LOPEZ

The sentence is modified by imposing a stay (Pen. Code, § 654) on the 30-day sentence for the resisting count (Pen. Code, § 148) and in all other respects the judgment is affirmed. The trial court is directed to prepare and forward to the Department of Corrections and Rehabilitation a new abstract of judgment.

BLEASE, J.

We Concur: Scotland, P.J.

Davis, J.

C059208 THE PEOPLE v. (Not For Publication)
YOMMALA SOUTHVILAY CRUZ

The judgment is modified to reflect that the sentence on count one, second degree commercial burglary, is stayed pursuant to Penal Code section 654. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modification, and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

DAVIS, J.

We Concur: Blease, Acting P.J.

Hull, J.

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Court Minutes

January 30, 2009

- C056113 THE PEOPLE v. ALAREN FRAZIER (Not For Publication)**
Defendant's conviction on count 8 of receiving the stolen .38 caliber revolver is reversed. The judgment is also reversed with respect to the sentence imposed and remanded to the trial court for resentencing. The trial court is directed to impose a consecutive term of 25 years to life on the unlawful taking or driving of the Tahoe (count 5), and to either impose a consecutive term of 25 years to life on the unlawful taking or driving of the Acura (count 1) or state its reasons for imposing a concurrent term. In all other respects, the judgment is affirmed.
 SIMS, Acting P.J.
We Concur: Davis, J.
 Hull, J.
- C057342 THE PEOPLE v. (Not For Publication)**
JASON MATTHEW DENNY
The judgment is affirmed.
 BLEASE, Acting P.J.
We Concur: Davis, J.
 Butz, J.
- C056266 MATHEWS v. MOUNIER, JR. (Not For Publication)**
The orders denying the special motion to strike and awarding Scott attorney fees are affirmed. Scott shall recover his costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1).)
 ROBIE, J.
We Concur: Blease, Acting P.J.
 Cantil-Sakauye, J.
- C056456 SHULL v. COUNTY OF SACRAMENTO et al. (Not For Publication)**
The judgment is affirmed. Defendants shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1).)
 ROBIE, J.
We Concur: Blease, Acting P.J.
 Cantil-Sakauye, J.
- C057149 HAMMON, as Trustee, etc. v. (Not For Publication)**
WOOLERY et al.
The order is affirmed. Hammon is awarded his costs on appeal. (Cal. Rules of Court, rule 8.278 (a).)
 NICHOLSON, J.
We Concur: Blease, Acting P.J.
 Raye, J.